IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO. 465 OF 2005

IN

SUIT NO. 3690 OF 1992

Mascot Developers & Ors.... ... ...Plaintiffs.

Versus

Dr.Natwarlal Dayashankar Joshi & Ors.... Defendants.

A N D

Harsh Sudhir Majithia & Ors... ... Respondents.

Ms. Anita Castelino i/by M/s. Lambey & Co.,
for the Plaintiffs.

Mr. Virag Tulzapur with Ms. A. Ghone i/by
M/s. Kanga & Co. for Defendant Nos.7 &
Respondent Nos.1 to 21.

Mr. C. Ardeshir for Respondent No.22.

CORAM: A. M. KHANWILKAR, J.

DATE : 2ND AUGUST, 2005

P.C.:

Heard Counsel for the parties.

2. I find substance in the objection taken on behalf of Defendant No.7 and Respondent Nos.1 to 21 that it is not necessary to burden the record of this Court with new parties and amendment of pleadings even assuming that

the case made out by the Plaintiffs about subsequent transfer during the pendency of the suit is to be accepted as it is. It is submitted by Mr. Tulzapurkar, learned Counsel that all those transactions will be governed by the principles of lis pendence for which reason it is not necessary to burden the record of this Court. There is substance in this argument. As the grievance of the Plaintiff is about the subsequent transfers made during the pendency of the suit, for which the Plaintiffs intend to add the named Respondents as Defendants to the suit, that grievance can be taken care of if the Plaintiffs were to comply with the condition of the lis pendence.

3. Counsel for the Plaintiffs submits that the Plaintiffs will complete necessary formalities required for invoking lis pendence, if already not done. In this view of the matter, it is not necessary to dilate further on the proposed amendment in the present the application.

4. Hence, the Chamber Summons is dismissed with liberty to the Plaintiffs to take appropriate steps or such remedy as may be permissible to invoke the principles of lis pendence.

5. No order as to costs.

Sd/-

(A.M.KHANWILKAR, J.)